

### **REMARKS**

Claims 9-37 are pending. Claims 18 and 25 are cancelled and claims 9 and 21 are amended herein. Support can be found for the present claim amendments throughout the original specification and no new matter is believed to have been added by their introduction. For example, amended claims 9 and 21 are supported on page 6, lines 12-33; page 7, lines 10-23; and page 8, line 10-page 9, line 4.

#### **The Rejections Under 35 U.S.C. § 112, First Paragraph**

Claims 9-37 stand rejected under 35 U.S.C. § 112, first paragraph. The Office has stated that the specification does not reasonably provide enablement for any hydrolysable spacer and any two polymers. In response, the present amendment provides an amendment of the pending claims designed to limit the claimed scope of the invention commensurate with Examiner's rejection.

The new claims are limited to hydrogels composed of polymer chains as disclosed, for example, on page 6 of the present specification. These chains are interconnected to each other through spacers, wherein the spacers contain pre-polymer units as crosslinking agents (e.g., as presented on page 8 of the present specification) and contain at least one hydrolysable bond. The claims are based on the preferred spacers described in the specification and are fully supported by the working examples. Thus, based upon the present amendment which addresses the Office's basis for rejection, Applicant's respectfully request withdrawal of this rejection.

#### **The Double Patenting Rejection**

The Office has provisionally rejected claims 9-37 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13-31 of copending Application No. 09/214,306. Respectfully, the Applicants assert that a terminal disclaimer under 37 CFR 1.321(c) will be provided upon filing and recordation of assignment documentation in copending Application No. 09/214,306, and prior to the indication of allowable subject matter in the present matter. Accordingly, as this rejection relates to form not necessary for further

consideration of the present claims, applicants respectfully request that the Office hold this requirement in abeyance until allowable subject matter in this application is indicated. See 37 C.F.R. § 1.111(b).

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 313632000501.

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims:**

Please amend claims 9 and 21 as follows:

9. (Amended) A biodegradable hydrogel comprising a network of polymer chains, wherein said network contains polymer backbones which are interconnected to one another through spacers formed by crosslinked units, wherein the spacers contain, between said polymer backbone and the crosslinked unit, one or more bonds which [is] are hydrolysable under physiological conditions,

wherein said crosslinked unit is comprised of a polymer of (poly)glycolic acid and/or (poly)lactic acid, in combination with acrylate, methacrylate and/or hydroxyalkyl methacrylate groups; and

wherein said polymer backbones are selected from the group consisting of dextran, derivitized dextran, starch, starch derivatives, hydroxyethyl cellulose, hydroxypropyl cellulose, polyvinylpyrrolidone, polyvinylalcohol, polyacrylate, polymethacrylate, and polyethylene glycol.

21. (Amended) A crosslinkable polymer capable of forming a hydrogel, comprising a hydrophilic polymeric backbone and at least one spacer, the spacer comprising one or more bonds which [is] are hydrolysable under physiological conditions and at least one crosslinkable group

wherein said crosslinkable group is comprised of a polymer of (poly)glycolic acid and/or (poly)lactic acid, in combination with acrylate, methacrylate and/or hydroxyalkyl methacrylate groups; and

wherein said polymer backbone is selected from the group consisting of dextran, derivitized dextran, starch, starch derivatives, hydroxyethyl cellulose, hydroxypropyl cellulose, polyvinylpyrrolidone, polyvinylalcohol, polyacrylate, polymethacrylate, and polyethylene glycol.